

FILED

JUL 23 2021

2020R00922/RA

AT 8:30

WILLIAM T. WALSH
CLERK4:30 PM
JP**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA : Hon. Claire C. Cecchi
v. : Criminal No. 21-578-CCC
:
DAMION JAMES, : 18 U.S.C. § 242
HERMAN PRIDE, : 18 U.S.C. § 1519
JENNIFER WHITLEY, and : 18 U.S.C. § 2
NICHOLAS PALMA

INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark, charges:

Count 1
(Deprivation of Rights Under Color of Law)
(Defendant JAMES)

1. At all times relevant to Count 1 of this Indictment:
 - a. The Essex County Correctional Facility ("ECCF") was a jail in Newark, New Jersey responsible for the custody, control, care, and safety of its inmates and pre-trial detainees.
 - b. Defendant DAMION JAMES was a Correctional Officer employed at ECCF.
 - c. Defendants HERMAN PRIDE and JENNIFER WHITLEY were Sergeants employed at ECCF.
 - d. Defendant NICHOLAS PALMA was a Lieutenant employed at ECCF.

e. Angel Chaparro and Luis Ortiz were Correctional Officers employed at ECCF.

f. The Victim was a federal pretrial detainee housed at ECCF. The Victim had been charged by federal criminal complaint with conspiracy to distribute fentanyl and heroin.

2. On or about August 17, 2020:

a. The Victim splashed a correctional officer with a substance containing urine, milk, and yogurt.

b. JAMES, WHITLEY, PALMA, Chaparro, and Ortiz subsequently transported the Victim to a disciplinary cell. As they approached the disciplinary cell, PRIDE joined them.

c. JAMES, PRIDE, Chaparro, and Ortiz entered the disciplinary cell with the Victim. WHITLEY and PALMA stood outside of the cell and looked into it.

d. Inside the disciplinary cell, JAMES, Chaparro, and Ortiz began to conduct a strip search of the Victim. They never completed it. During the strip search, JAMES began striking the Victim repeatedly in the body and face, causing the Victim bodily injury. PRIDE, WHITLEY, and PALMA witnessed the assault. Although PRIDE, WHITLEY, and PALMA each were supervisors who could have intervened to stop the assault, none of them did so.

e. After the assault, WHITLEY signed and submitted a “Strip/Body Cavity Search Report” (the “Report”). The Report was false in at least the following ways: (i) WHITLEY submitted the Report after Chaparro had signed a blank version and thus submitted a Report that falsely listed Chaparro as the Reporting Officer; (ii) by signing and submitting the Report, WHITLEY falsely indicated that a strip search of the Victim had been completed, when, in fact, the officers never completed a strip search of the Victim; and (iii) in the section of the report titled, “If applicable, Reason for Use of Force,” the Report stated, “N/A,” creating the false pretense that no force had been used against the Victim, when, in fact, JAMES had assaulted the Victim while PRIDE, WHITLEY, and PALMA watched and did not intervene.

f. None of the officers filed written reports documenting the use of physical force against the Victim.

3. On or about August 17, 2020, in Essex County, in the District of New Jersey, and elsewhere, defendant

DAMION JAMES,

while acting under color of law, willfully subjected the Victim to the deprivation of the right, protected and secured by the Constitution and laws of the United States, to due process of law, which includes the right of a pretrial detainee to be free from the use of unreasonable force by a person acting under color of law. This offense resulted in bodily injury to the Victim.

In violation of Title 18, United States Code, Sections 242 and 2.

Count 2

**(Deprivation of Rights Under Color of Law)
(Defendants PRIDE, WHITLEY, and PALMA)**

1. The allegations in paragraphs 1 and 2 of Count 1 of this Indictment are realleged and incorporated here.
2. On or about August 17, 2020, in Essex County, in the District of New Jersey, and elsewhere, defendants

**HERMAN PRIDE,
JENNIFER WHITLEY, AND
NICHOLAS PALMA,**

while acting under color of law, willfully subjected the Victim to the deprivation of the right, protected and secured by the Constitution and laws of the United States, to due process of law, which includes the right of a pretrial detainee to be free from the use of unreasonable force by a person acting under color of law. Specifically, PRIDE, WHITLEY, and PALMA willfully failed to intervene to stop JAMES from physically assaulting the Victim. This offense resulted in bodily injury to the Victim.

In violation of Title 18, United States Code, Section 242.

Count 3
(Falsification of Record)
(Defendant WHITLEY)

1. The allegations in paragraphs 1 and 2 of Count 1 of this Indictment are realleged and incorporated here.
2. Offenses involving the deprivation of civil rights, to include the right of pretrial detainees to be free from the use of unreasonable force by a person acting under color of law, contrary to Title 18, United States Code, Section 242, are matters within the jurisdiction of the Federal Bureau of Investigation (the “FBI”), which is an agency within the United States Department of Justice.

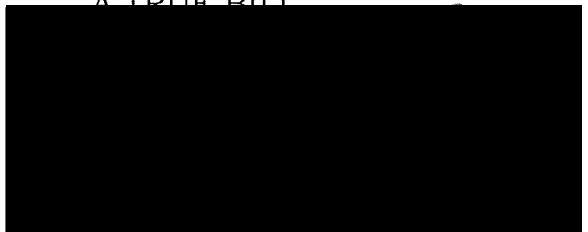
3. On or about August 17, 2020, in Essex County, in the District of New Jersey, and elsewhere, defendant

JENNIFER WHITLEY,

in relation to and in contemplation of a matter within the jurisdiction of the FBI and the United States Department of Justice, knowingly concealed, covered up, falsified, and made false entries in the Report as set forth in paragraph 2(e) of Count 1 of this Indictment with the intent to impede, obstruct and influence the investigation and proper administration of such matter.

In violation of Title 18, United States Code, Sections 1519 and 2.

A TRUE BILL



Rachael A. Honig

RACHAEL A. HONIG
Acting United States Attorney

CASE NUMBER: 21-cr-578-CCC

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

**DAMION JAMES,
HERMAN PRIDE,
JENNIFER WHITLEY, AND
NICHOLAS PALMA**

INDICTMENT FOR

18 U.S.C. § 242

18 U.S.C. § 1519

18 U.S.C. § 2



RACHAEL A. HONIG
ACTING UNITED STATES ATTORNEY
FOR THE DISTRICT OF NEW JERSEY

RAHUL AGARWAL
ASSISTANT U.S. ATTORNEY
NEWARK, NEW JERSEY
973-297-4395